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RUEHJO/AMCONSUL JOHANNESBURG 2211
RUEH DU/AMCONSUL DURBAN 3354

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SUBJECT: DA PROPOSES BILL TO REGULATE PRESIDENTIAL PARDONS

¶1. (U) On January 13, 2010 the Democratic Alliance (DA) unveiled its Private Members Bill on Presidential Pardons which it will submit to the Speaker. The Bill aims to prescribe a set of requirements to which the President must adhere when exercising his right to pardon a South African citizen, thereby ensuring executive accountability. (FYI: Private Member's Bills, particularly from opposition parties, almost never end up being enacted into law. They do, however, allow the opposition an opportunity to force a debate on an issue. End FYI.)

¶2. (U) James Selfe, the DA's Shadow Minister for Correctional Services, stated that, although Section 84 of the Constitution bestows upon the President the power to grant pardons, he normally follows guidelines set out by the Department of Justice in doing so, though he is under no obligation to follow these guidelines. The DA, therefore, proposed that the guidelines be made mandatory and that the power to pardon should be exercised sparingly, in exceptional circumstances and then only to correct a wrongful or excessive sentence after consultation with the victims.

¶3. (U) The Bill comes amid speculation that Zuma is considering pardoning one time financial advisor and convicted fraudster Schabir Shaik, former SA Police Force Colonel and state sanctioned apartheid-era murderer Eugene de Kock and Chris Hani assassin Janusz Walusz.

¶4. (U) Shaik's conviction and 15-year sentence were hailed as a victory for the rule of law in a justice system that was increasingly perceived to be under pressure from the ruling party. However, in 2009 Shaik was granted medical parole after serving only twenty eight months of his sentence and sparked much debate this year when it was learned that he has applied for a presidential pardon.

¶5. (SBU) Comment: Word of the application has again fueled press speculation that Zuma made a political arrangement with Shaik to ensure the latter's silence and clear the way for Zuma to become president, with the tacit understanding of a presidential pardon further down the line. Press commentators have branded hints about pardoning De Kock, who has served 14 years of a 212-year-sentence for apartheid era atrocities, as a political trade-off to divert attention from Shaik's pardon. James Selfe told PolAssist that granting either Shaik or de Kock a pardon would undermine the rule of law and equality before the law. A survey conducted by Independent News & Media suggests that Zuma would damage his current high approval rating if he pardoned Shaik (85% of its readers said no to pardoning Shaik while only 15% were in favor). It remains to be seen whether public opinion will be the deciding factor in Zuma's decision. End Comment